

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STEVEN A. CUCULICH, as Trustee of
Inter Vivos Tr II FBO The Cuculich Family,

Case No. 1:21-cv-06752-PKC

Plaintiff,

v.

JOHN Z. RIGOS,

Defendant.
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DECLARATION OF JOHN Z. RIGOS

John Z. Rigos declares, under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct:

1. I am the defendant in this action. I have knowledge of the facts and circumstances set forth below based on my personal knowledge and review of my books and records. I submit this declaration in support of my motion to dismiss the amended complaint of plaintiff Steven A. Cuculich, as Trustee of Inter Vivos Tr II FBO The Cuculich Family ("**Landlord**").

2. By lease dated as of November 3, 2014 (the "**Lease**"; Exhibit E), nonparty FlavorWorksTruck LLC ("**FlavorWorks**") leases commercial space (the "**Premises**") located at 43-13 Broadway, Astoria, New York from Landlord. I am the individual guarantor under the Lease. *See id.* at Article 37.

3. FlavorWorks operates a drinking and eating establishment at the Premises. In or about March 2020, FlavorWorks ceased its on-premises food and beverage service to comply with the emergency executive orders issued by former Governor Andrew Cuomo.

4. Although Landlord's amended complaint is unclear as to the time period of the unpaid rent that it is seeking to recover from me, it appears that Landlord is seeking damages

based on an alleged default by FlavorWorks that includes arrears that accrued from and after March 2020.

Dated: New York, New York
November 17, 2021

John Z. Rigos

CERTIFICATE OF SERVICE

I hereby certify that on November __, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notice of such filing to all parties of record in this action.

/s/ Gerard C. Morici

Gerard C. Morici